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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,686	06/20/2001	Paul Peterson	30020/37197	6375
4743	7590	11/20/2006	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606				FISHER, MICHAEL J
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/885,686	PETERSON, PAUL	
	Examiner Michael J. Fisher	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 16 June 2006.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-4,6-9 and 11-22 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-4,6-9,11-22 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-4,6-9,11-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PAT 5,666,215 to Fredlund et al. (Fredlund) as modified by US PAT 5,924,870 to Brosh et al. (Brosh).

As to claims 1, Fredlund discloses a system and method of producing a novelty item comprising transmitting images over a communication link (col 2, lines 34-40, which communication link would include the Internet), receiving a theme identifier chosen and merging that with personal images received (col 1, lines 22-26, col 7, lines 2-3), digitally combining the images (col 1, lines 22-23), printing the image (fig 7C), and receiving a shipping address and shipping the item to the address (col 8, lines 57-64).

Fredlund does not, however, teach using the method and system for lenticular items.

Brosh teaches method and system of producing a lenticular item using a composite picture with interleaved format (abstract).

It would have been obvious to one of ordinary skill in the art to modify the system as taught by Fredlund for lenticular images as taught by Brosh as both teach this as a way of creating images.

As to claim 8, Fredlund as modified by Brosh teach a method and system as above. The further teach a network receiver (modem 46, fig 7C), a memory device (138, fig 7C), an integration module (computer software, as the images are integrated by the computer), an interlacer (as the images are interlaced or interweaved), a printer (106,108,110 in fig 7C).

As to claims 4,11,15, Fredlund discloses retrieving foreground and background images (col 1, lines 22-26). Fredlund does not, however, teach editing the images.

Editing images is old and well known in the art, therefore, it would have been obvious to allow for images to be edited for aesthetic purposes.

As to claims 2,13,16, Fredlund discloses transmitting images via the communications link (col 8, lines 40-44).

As to claims 3,17, as the image would be lenticular, it would inherently be made of data indicative of two dimensional frames as this is how lenticular images are formed.

As to claims 6,12,21, it would have been obvious to include positioning marks so the customer could assemble the image properly so as to have a lenticular effect.

As to claims 7,22, Brosh teaches using adhesive (col 4, lines 10-12).

As to claims 9,14 as the images are lenticular, they would inherently have a foreground and a background image (a plurality of images).

As to claim 18, Fredlund teaches receiving a theme identifier (col 1, lines 22-26).

As to claim 19 as discussed, the images are interleaved.

As to claim 20, as the images are lenticular, they would inherently have a foreground and a background image (a plurality of images).

***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

As there is no record of why the previous examiner deemed the instant application allowable, the examiner has treated the instant application as a new case and therefore, feels the rejection under the art proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Fisher whose telephone number is 571-272-6804. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Fisher



Patent Examiner  
GAU 3629

MF  
11/13/06